

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FRANCIS WOUKOP YOMI,

Plaintiff(s),

v.

CARLOS DEL TORO, et al.,

Defendant(s).

CASE NO. C23-5199-KKE

ORDER DENYING MOTION FOR
DEFAULT JUDGMENT

This matter comes before the Court on Plaintiff's motion for default judgment. Dkt. No. 36. Because default judgment cannot be entered against a party that has not defaulted, and Defendant has not defaulted, Plaintiff's motion is denied.

The Court previously ordered Plaintiff to provide service copies of the summons and complaint no later than November 27, 2023, for use by the United States Marshal in effectuating service on Defendant. Dkt. No. 28. Plaintiff complied with this order, and the United States Marshal completed service on January 3, 2024. *See* Dkt. No. 39. Defendant filed an answer on February 29, 2024. Dkt. No. 32. This answer is timely under Federal Rule of Civil Procedure 12(a)(2).

Although Plaintiff contends that Defendant's answer was due no later than 14 days after January 3, 2024, he cites no authority imposing that deadline. *See* Dkt. No. 42. Federal Rule of Civil Procedure 12(a)(4) addresses the impact on the responsive pleading deadline if a motion is

1 served under this rule, but no such motion was filed here. Because Defendant's answer was filed
2 before the expiration of the 60-day deadline imposed by Rule 12(a)(2), it was timely and the Court
3 has no basis for finding Defendant in default.

4 Accordingly, the Court denies Plaintiff's request for entry of default and therefore finds
5 that entry of a default judgment is inappropriate. *See* Local Rules W.D. Wash. LCR 55(b)(1) ("No
6 motion for judgment by default should be filed against any party unless the court has previously
7 granted a motion for default against that party pursuant to LCR 55(a) or unless default otherwise
8 has been entered."). The Court DENIES Plaintiff's motion. Dkt. No. 36.

9 Dated this 8th day of April, 2024.

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12 Kimberly K. Evanson
13 United States District Judge
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